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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,643	06/25/2003	C. David Shook	8142	2758

7590

06/14/2005

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EXAMINER
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NGUYEN, CAMTU TRAN

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/603,643	<b>Applicant(s)</b> SHOOK ET AL.	
	<b>Examiner</b> Camtu T. Nguyen	<b>Art Unit</b> 3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 9-12, and 14-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Gold (U.S. Patent No. 5,187,814). Gold discloses in Figures 6 and 7 a sock (400) with attached heater pack (34) comprising elements as recited in these claims including the sock (400) having a chamber (450) for receiving the heater pack (30). With regards to the compression stocking and the understocking, as recited, it is not unreasonable to interpret these elements in the claims given their broadest reasonable interpretation consistent with the supporting description.

According to applicant's disclosure on page 8 lines 6-8, the Gold's sock (400) as illustrated in Figure 7 having an upper outer wall (402), a lower outer wall (401), and an inner chamber wall (403) can be easily meet applicant's compression stocking and understocking wherein the Gold's upper outer wall (402) fits over the inner chamber wall (403) and secures the inner chamber wall (403) and the heater pack (30) to the user's or patient's body. The Gold device would be inherently capable of performing the steps as recited in the method claims.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 6, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gold (U.S. Patent No. 5,187,814). Gold discloses in Figures 6 and 7 a sock (400) with attached heater pack (34) comprising elements as recited in these claims including a chamber (450) for receiving a heater pack (30). With regards to claims 5, 6, and 13, the Gold's chamber (450) is bounded by a joint at where the upper wall and the lower wall (401, 402) and the opening end of the chamber where mating hook and pile connectors (441, 442) are found. Therefore it would have been obvious to one of ordinary skill in the art to recognize the Gold's chamber (450), structured as described above, as the same equivalent for the same purpose as claimed.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gold (U.S. Patent No. 5,187,814) and further in view of Lyles (U.S. Patent No. 6,001,122). Gold discloses in Figures 6 and 7 a sock (400) with attached heater pack (34) comprising elements as recited in these claims including a chamber (450) for receiving a heater pack (30) but does not teach the chamber (450) extends 360 degrees within the sock (400). Lyles discloses in Figures 1-4 a bootie (10) with thermal pack (24) removably situated within a pair of pockets (18) which are mounted on the sleeve (18) of the bootie (10), the pair of pockets (18) includes a top pocket (18) and a bottom pocket (22) and as illustrated in Figure 4 the pockets (18) extends 360 degrees. Therefore it would have been obvious to one skilled in the art during the time of the invention to

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modify Gold's chamber such that it would extend 360 degrees within the sock (400) as such would provide the more chamber area.

### *Conclusion*

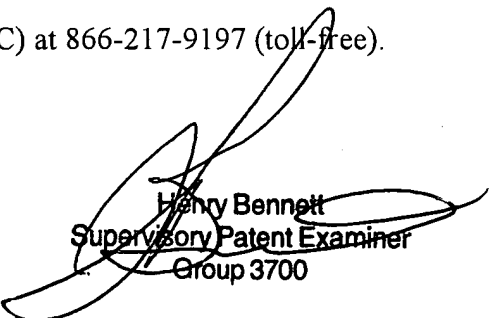
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camtu T. Nguyen whose telephone number is 703-305-0537. The examiner can normally be reached on (M-F) 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett can be reached on 703-308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Camtu Nguyen  
June 1, 2005



Henry Bennett  
Supervisory Patent Examiner  
Group 3700